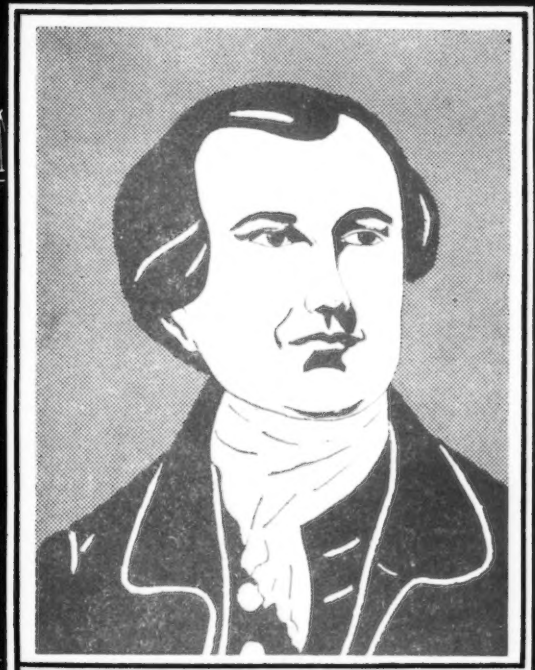
CASE AND COMMENT



EDMUND JENNING RANDOLPH
First Attorney General of the United States

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Case and Comment

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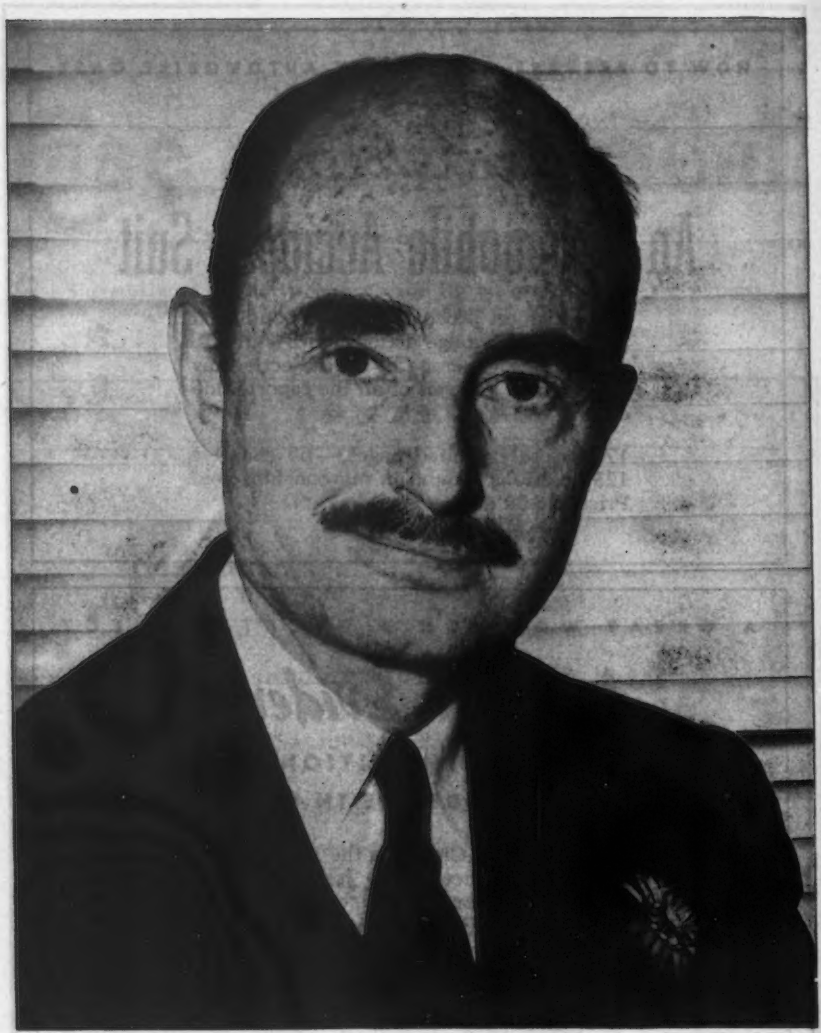


Wide World Photos

FRANCIS BIDDLE

Born: Paris, France, May 9, 1886
Judge, Circuit Court of Appeals, 1939–40
Solicitor General of U. S., 1940–41
Attorney General of U. S., 1941–

ATTORNEYS GENERAL

EDMUND JENNING RANDOLPH

AND

FRANCIS BIDDLE

By MORRIS WEISMAN
of the Philadelphia Bar

(Condensed from Oct. 1941 Commercial Law Journal)

MR BIDDLE'S appointment as Attorney General reveals the arresting coincidence that the first Attorney General of the United States was his great, great, grandfather, Edmund Jenning Randolph, of whom Mr. Biddle's mother was a direct descendant.

Mr. Biddle would probably subscribe without reservation to the dictum of Hawthorne that "once in every half century at longest a family should be merged into the great obscure mass of humanity and forget all about its ancestors," but this saying, like most rules, should have exceptions, and there is such an exception in the extensive parallelism in the careers of the first and fifty-eighth Attorneys General of the United States. Both men are now part of the nation's history, and the similarity of their careers is of interest to their countrymen.

RANDOLPH

When, in 1789, Washington tendered Randolph an invitation to be the Attorney General of the United States, Randolph did not immediately accept. His hesitation was caused by a sympathetic consideration of the wants and needs of his family. As a former governor of the State of Virginia, and as a leader of its bar, Randolph's earnings were sufficiently ample to permit him to supply his wife with the constant medical attention she required and, further, at a time when public schooling was unknown, to pay the costly expense of educating his children. Acceptance of the post of Attorney General would necessitate not only relinquishing his lucrative practice, but moving to New York, then the capital of the Nation, where the cost of living was high. Moreover, he would be expected, as Attorney General, to live in a style compatible with the dignity of the office.

The salary of the new post of Attorney General was $1,500.00 per annum, a sum hardly more than an honorarium. Randolph deemed the salary insufficient to enable him to observe his duties to his family and his office. His dilemma is revealed in a letter which he wrote to James Madison, whom he had asked to find a dwelling place for him in New York. Madison found a suitable place renting at $250.00 a year. Randolph decided that this was rather too high a rental for his prospective income. He therefore wrote Madison "Frugality is my object . . ." After profound consideration, Randolph eventually subordinated his personal interests to those of the Nation. He accepted the post, but in order to do so, mortgaged his farm in Virginia as a means of obtaining monies to meet the financial burdens which the office of Attorney General and his residence in New York would impose upon him.

The Randolphs came of good stock. In their veins ran the royal blood of Princess Pocahontas. Their forefathers, squires of Warwickshire and Northampton, were allied with the great Scottish Earls of Murray. One of them, Thomas Randolph (1604–

34) an Elizabethan poet and wit, had the honor of being "adopted" by Ben Jonson and his circle. Of him Feltham wrote:

"Such was his genius, like the eye's quick wink,
He could write sooner than another think;
His play was fancy's flame, a lightning wit,
So shot that it could sooner pierce than hit."

At Tazewall Hall, Edmund Jenning Randolph, great grandson of Colonel Randolph, was born August 10, 1753. His mother, a noted beauty, was Ariana, a daughter of Edmund Jenning, King's attorney of Maryland.

Edmund, young, handsome and brilliant, was an outstanding student at William and Mary College, studied law with his father, and, at an early age, gained a high reputation with the bench for legal accuracy and exact thinking.

He greatly admired Jefferson, his kinsman. Jefferson and John Randolph were intimate friends. For relaxation they played the violin. Together they drew this curious contract:

"If John Randolph survived Jefferson, he was to have 800 pounds' worth of volumes from the latter's library; but if John Randolph died first, Jefferson was to have 'the violin which the said John brought with him into Virginia, together with all his music composed for the violin.'"

Early in August, 1775, he presented himself at Washington's headquarters at Cambridge, bearing letters of introduction, and Washington promptly appointed him an aide-de-camp. Between the hereditary loyalty of his stock and the personal enthusiasm Washington inspired in him, Randolph became devotedly attached to the first president.

The following year, Congress appointed Randolph "Mustermaster" for the Williamsburg District, and the town of Williamsburg appointed him (January, 1776) one of the three judges to determine questions relating to the property of Tories, and other questions growing out of the Revolution. Meanwhile, he was elected a delegate to the newly summoned Virginia Convention. Only twenty-three, he was its youngest member and, next to Patrick Henry, its most influential. In him the people saw the venerated House of Randolph restored, its prestige revived. At the close of the Convention, admiration for Randolph turned to an earnest and fervent feeling. The Assembly named him Attorney General under Virginia's new Constitution; Williamsburg elected him Mayor; and among the notices in the Gazette (August 29, 1776) was one announcing his marriage.

Mrs. Randolph brought as her contribution to their fortune, shrewdness and a sense of economy, the latter an attribute of some importance. For the newlywed pair were dependent on the remunerations of his practice; the salaries attached to the two offices were small. But Randolph's success at the bar was extraordinary. Clients crowded his office and beset him on his way to the courthouse, their papers in one hand and their guineas in the other.

On November 7, 1786, Edmund Randolph was elected Governor of Virginia. He was then only thirty-three years old.

At this time, the call for a Constitutional Convention was before the country. Voting each delegate a hundred pounds for expenses, Virginia sent Washington, Patrick Henry, George Wythe, John Blair, James Madison, George Mason and Randolph to Philadelphia. Patrick Henry's poverty prevented his attendance. Commenting upon this, Governor Randolph wrote to James Madison "I have assayed every means to prevail on him (Patrick Henry) to go thither. But he is peremptory in refusing, as being distressed in his private circumstances."

Randolph came to the Convention

well prepared; in his pocket was a proposed Constitution upon which he had been working for four years. Lucidly, logically and forcefully, he presented his ideas and made a showing that won the admiration of those who differed with him. Though he was opposed to many of the provisions of the final draft of the proposed Constitution, nevertheless as Governor, he advocated unconditional ratification by Virginia, for there was nothing of the "irreconcilable" about him. He was bitterly opposed by Patrick Henry but finally carried the State, for ratification, by a small majority.

In launching the newly formed "United States of America," President Washington sought superior men for its first government and Randolph was clearly indicated for a place. The pre-eminent position which he had attained at the bar; his fame as the First Attorney General of Virginia; his brilliant work at the Constitutional Convention; his experience as a judge in cases immediately resulting from the breaking up of the English law system in Virginia, all these pointed to him as the well rounded man to head the legal machinery of the government. The President's invitation arrived, and on October 8, 1789, Randolph accepted it.

He served as Attorney General for five years. He evolved and inaugurated the Federal judiciary system which has successfully endured to this time. He dealt most successfully with the first Supreme Court. He rendered opinions not only on law questions, but moreover on matters of State. Although the latter was not within his province, he was constantly asked by Washington for advice. He was also Washington's personal counsel.

In 1794, Thomas Jefferson retired as Secretary of State and suggested to Washington that Randolph be named his successor. The salary of Secretary of State was $3,500.00. This suggestion was adopted and Randolph resigned the office of Attorney General to take his new cabinet post. The change proved to be a personal mistake. Randolph was unhappy in his new position and the following year he resigned.

Returning to Virginia, he resumed the practice of law, taking his old place at the head of the Bar. He was counsel in many important cases, his defense of Aaron Burr in the historic trial held in Richmond being probably the best known.

After the Burr trial, Randolph commenced the work upon his history of Virginia. He was engaged in this undertaking for virtually two years, and they were happy years. But then tragedy struck at him. His wife died on March 6, 1810. Her death was calamitous for him.

Randolph could not sustain his bereavement. He could not be comforted; he became afflicted with paralysis, yet insisted upon making daily visits to his wife's grave, on crutches. He died September 12, 1813, at the age of fifty-seven.

BIDDLE

Francis Beverly Biddle was born May 9, 1886, in Paris, France, and is therefore not eligible for the office of President of the United States. His brother is George Biddle, an accomplished artist who, in a mural now in the Justice Department Building at Washington, portrayed Francis Biddle as a laboring man.

His wife is the former Katherine Garrison Chapin, a poet of note. Mr. Biddle also writes, trying his hand, in his leisure moments, at verse and short stories. In 1927 he published a novel "The Llanfear Pattern."

Mr. Biddle was a classmate of Mr. Roosevelt at Groton and Harvard, where he was captain of the gymnastic team and a champion boxer. In 1911 and 1912, Mr. Biddle served as pri-

vate secretary to Justice Holmes and whatever his outlook upon life up to then, his social and political views became firmly fixed thereafter in the liberal pattern of that great jurist.

He was admitted to practice in the Supreme Court of Pennsylvania in 1914. From 1922 to 1926 he was special assistant United States Attorney for the Eastern District of Pennsylvania.

In 1924 he organized the Philadelphia branch of the Foreign Policy Committee and since that time has been its Chairman.

In 1934, he was appointed the first chairman of the National Labor Relations Board, a post he resigned less than a year later to return to private practice. In 1938, he returned to Washington, as chief counsel for the Congressional Committee which investigated the Tennessee Valley Authority. Again he returned to private practice and, in 1939, President Roosevelt appointed him Judge of the United States Circuit Court of Appeals for the Third Circuit, but he was on that bench less than a year. In January 1940 he resigned to become Solicitor General, with a reduction in salary from $12,500.00 to $10,000.00. His explanation for his willingness to leave a lifetime post of honor and quietude for a political appointment at lower salary which would end with the Roosevelt Administration was that "the President asked me to take it, and it suits my temperament better." Mr. Biddle is a fighting lawyer and not a lover of cloistered seclusion.

The high degree of success of the United States in its litigation before the Supreme Court has proved the wisdom of the President's selection. Like his distinguished forebear Randolph, Mr. Biddle, as Solicitor General, demonstrated his great stature as a lawyer, which for many years had been well known to many of his profession, frequently to the discomfort of his adversaries. As Solicitor General he had to argue cases on many diverse subjects. Government agencies have not infrequently called upon him to represent them in seeking to sustain difficult causes, indeed a tribute to his ability. His defeats are invariably those of the distinguished advocate briefed to handle lost and difficult causes.

In time of war or emergency, the Department of Justice becomes the center of the nation's vastly increased control over the business and political activities of its citizens. As regulations multiply, the individual grows smaller and more helpless, emphasizing the need of an Attorney General possessing an abiding belief in a judicious balance of restriction and freedom.

Justice is the fundamental law of society, and all the more so in a period of national emergency. There are some who believe that the law speaks too softly to be heard in the clamor of war, but this is no part of Mr. Biddle's credo. War or no war, he will be found defending the rights of business, as well as those of the "little man." He will be found curbing the Department of Justice, which in time of strain and stress, can impose hardship and do injustice, and yet suppressing with all his might and main subversive factions and elements. Fighting against license on the one hand and too much regulation on the other, Mr. Biddle will be considered too conservative by many liberals, and a leftwinger by conservatives. In a recent speech, Mr. Biddle summed up his philosophy on civil rights as follows:

> "We have come to realize, as our society grew more complicated, that all personal rights are relative. The interests of society continually conflict with the interests of the individual. Law in a democracy is largely an attempt to resolve that conflict.
>
> The duty of the law is to draw the line be-

tween the individual's right and the protection of society, and that line must necessarily vary as the needs of the one or the other seem at any particular time to be more imperative. The constitutional protections of the individual and correlative powers granted to the State, general as they are, suggest emphasis and direction."

None is more aware than Mr. Biddle that the dignity and stability of our government, the morals of our people, and every blessing of society depend upon an upright and skilful administration of justice, and that the Constitution is not a mere thing of wax to be twisted into any shape or form. On the other hand, with a progressive outlook, he is not one who will ascribe to the men of history a wisdom more than human, and accept every doctrine as beyond change or improvement, or believe that legal interpretations are too sacred to be questioned.

We may be sure that Mr. Biddle will approach his task keenly conscious of his grave responsibility, and that the Nation will find in him a sincere patriot, a man of vigor and zeal, wisdom and virtue, who will fight scrupulously for equal and exact justice for all men, and a lawyer with experience enough in subordinate office to appreciate the problems of the high position to which he has been so opportunely appointed.

By way of congratulations and best wishes to Mr. Biddle, we are reminded of a letter written in 1786 by George Washington to Edmund Jenning Randolph, a letter which Randolph always treasured, an extract of which we quote:

". . . Our affairs seem to be drawing to an awful crisis, it is necessary therefore that the abilities of every man should be drawn into action in a public line to rescue them if possible from impending ruin. As no one seems more fully impressed with the necessity of adopting such measures than yourself, so none is better qualified to be entrusted with the reins of government. I congratulate you on the decision, and, with sincere regard and respect . . ."

DANCE OF THE DAY

Earth is here, a tipsy guest,
Wearing a map but for a vest;
He bathes forever in the sun,
Yet reels about to give us fun.

Its morning here, and evening there,
Midnight up, while down its fair;
Here, merc'ry hugs himself with cold;
There, colored mam's too hot to scold.

Ever o'er this torso gay
Revel the shifting lights of day;
Lovers now watch a sunset show;
Yet dawn comes now with tender glow.

This gentleman needs naught for shroud—
Save, here and there, a fleecy cloud.

His reputation? Why bring up that?
Some people cal-ca-late he's flat;
And even most that now know better
Bear marks of many an ancient fetter!

W. WALLACE ALLEN

THE COURTS AND THE BAR IN THE TIME OF WAR

By GEORGE W. MAXEY [1]

One by one the judges leave this bench and others take their places, but there is no pause—the Court goes on. This Court is now in the third decade of the third century of its existence. It is invested with "judicial power" by the state's organic law. What this judicial power is has been exemplified in Anglo-Saxon and American jurisprudence for hundreds of years. Its chief function has been the protection of the individual, not only against the lawless depredations of other individuals but also against the oppression and spoliations of the government itself. In no nation has liberty ever survived the destruction of an honest, independent, and fearless judiciary. This Court interprets and applies the principles and commandments of the state Constitution, and in some cases those of the Federal Constitution. We had occasion recently to emphasize the fact that under our American system the state and not the Federal government is the traditional protector of the lives, the liberty and the property of its own people.[2]

Nearly a century ago Daniel Webster said: "Wherever the temple of justice stands and so long as it is duly honored, there is a foundation for social security, general happiness and the improvement and progress of our race."

It must be avowed of the state Supreme tribunal as it has been avowed of the nation's Supreme tribunal that "it possesses neither sword nor purse; its strength is found in the reverence of the people for the sanctity of the law." The maintenance of this sanctity depends *upon the people,* themselves, *upon the courts,* and *upon the bar.* To have a government of law, instead of tyranny or anarchy, that is, *a government ruled neither by a man nor by a mob,* there must be in human hearts an innate respect for law and order, and in the public mind an instinctive recognition of the postulate that the *first duty of government is to govern.* Undisciplined liberty means social distintegration. Dictatorships are products of democracies that fail. The Courts as arbiters of conflicting interests must consist of judges whose quest is always for the path of right, and when they conscientiously believe they have found that path they should travel it without fear or flinching. Their constant prayer should be that God give them as He gave Solomon: "Wisdom and understanding and largeness of heart, even as the sand that is on the seashore."[3] They should not *count* voices of approval; they should *weigh* them, and they should give the greatest weight to the voice of intelligence and conscience. A state or nation should be ruled by reason and not by tumult. The passion and prejudice of the passing hour should never be the supreme law of the land, for when they are, no man's life, liberty, or property is secure. It has been well said that peoples differ not so much in their avowals of a wish to do justice as they do in the

[1] Address of George W. Maxey, Chief Justice of the Supreme Court of Pennsylvania, in Reply to The Address of Salutation by John C. Arnold, Esq., President of the Pennsylvania Bar Association, at the Induction Ceremonies in the Supreme Court Chambers, Philadelphia, Pa., January 4, 1943.

[2] 344 Pa 41, 58; 24 A (2d) 1, 9.

[3] 1 Kings 4:29.

self-control which prevents emotional impulses from overriding justice.

The organic law embodies a people's sober judgment and it demands sober judgment. Fidelity to the fundamental law—which has been aptly characterized as "constitutional morality"—is the only guaranty of the permanence of constitutional government. When the social stream is lashed into fury it will burst its barriers and spread devastation far and wide unless the Constitution is strong, and no Constitution is stronger than the highest Court which stands behind it. It is a judge's duty not only to interpret the respective Constitutions of State and Nation but also to *"support, obey and defend"* them. There are occasions when he must help "hold the spirit of the age against the spirit of the time." The illustrious Chief Justice, John Bannister Gibson, who presided over this Court 100 years ago, and whose marble image looks down upon us in this Chamber judicially declared in 1844 that: "A Constitution is not to receive a technical construction, like a common law instrument or a statute. It is to be interpreted so as to carry out the great principles of the government, not to defeat them."[4] Just judgments depend primarily on the passionate zeal of judges *to do justice*—a zeal directed by intelligence, clothed with energy and manifesting itself in the craftmanship of painstaking care.

The functions of the bar are no less important than those of the court. It is the constitutional right of every accused "to be heard by himself and his counsel." In civil cases also this right is an integral part of that "due process of law" which every American when in need of it can freely invoke. Advocates of fidelity and ability are essential to the administration of justice. Each of us may well vow as did one of England's greatest lawyers and judges, Lord Chancellor Erskine: "I will at all hazards forever maintain the dignity, the independence and the integrity of the bar, without which justice can have no existence." It is the duty of lawyers to present the cause of their clients with candor, courage and clarity and it is the duty of the judges to listen to that presentation with attentiveness and patience, with decorum and with civility. Those who appear before courts of justice are *suitors, not suppliants.*

It is an ancient Latin proverb that amid the clash of arms the law is silent. This is true where Courts are closed by the vicisstiudes of war or by dictatorial decrees. In one half of the world today courts of justice *are* closed, but the war which 5,000,000 embattled Americans, with their allies of the United Nations, are now waging on all continents and on all seas and on the islands of the sea, is a war which will not end until in the arbitrament of arms *it is conclusively determined that lawless force must bow in submission and surrender to the force of law.*

With every judge and every lawyer *taking delight not in distinction but in duty well performed, proud not of his power but of his service, gratified not by what he gets but by what he gives,* we will all help to actualize that lofty ideal of the law as something so majestic that there are "none so high as to be beyond its power and none so humble as to be beneath its care; its seat is the bosom of God and its voice is the harmony of the world."

[4] 7 W. & S. 133.

THE UNITED NATIONS OF THE WORLD[1]

By HON. T. F. McCUE
of the North Dakota Bar

MUCH has been said in the press of the civilized world about universal peace; educators, diplomats, and men learned in international law have dwelt upon it as a theme for over a century; millions of dollars have been expended in establishing a court of arbitration at The Hague. Humanity abhors war; civilization is a unit in its craving for peace. Notwithstanding this almost universal clamor for peace by the populace of the civilized world, more than half of the civilized world is now engaged or affected by the most devastating, exterminating, and deadly conflict in the history of the world.

The millions of men in arms want peace; the women who have learned by sad experience the suffering and hardship that war heaps upon them pray and plead for peace; the commanding officers of the armies and navies engaged in this murderous conflict say they prefer peace. Every ruler of the warring nations says that the war was not brought on by his desire. Each power disowns the responsibility for the colossal slaughter.

As a fair deduction from the claims, reports, and interviews that have gone out from the several nations at war, we have a right to conclude that they all want peace. That being true, it is pertinent to ask, why not have peace? Humanity should have that which is universally desired and which is within human power to obtain.

We have confessedly good authority for the statement that the war was inevitable; in other words, there was no human power that could avert it. From what has been said, the desire to avert it was everywhere present, but the remedy was lacking.

When barbarian tribes became involved or vexed at each other, they went to war and kept at it until one or the other became subdued or exterminated. This barbarous spirit dictates international intercourse. Its final arbitrator has been and will continue to be war until national intercourse becomes civilized. Civilization is a state of peace and quietude of mankind. Its greatest precept is the settlement of controversy by adjudication. International controversies have invariably been settled by murder and slaughter of human life. Such is the condition of Europe to-day.

We may preach peace, pray for peace, and deceive ourselves into believing that, with the ceasing of hostilities in the European conflicts, there will be no more war. But as long as international intercourse is conducted on the plan that has always existed, wars will continue and increase in their fierceness according to the skill and genius of the age in which they are waged.

The several nations are nothing more or less than a collection or body of individuals. Nations, like individuals, are swayed by impulses, prejudice, and passion. War is an institution created by man, through which he wreaks his wrath; the culmination of impulse, prejudice, and passion on his fellow man. It is an institution of his own creation; he alone is responsible for it, and he alone must create the condition that will forever put a stop to it.

[1] Reprinted from March 1915 Case and Comment, volume 21, pages 808–812. Its suggestive power on a question on which current thought is being directed, it is felt warrants its reiteration.

I said that wars will continue as long as the conditions that bring about war exist. The written history of the past furnishes conclusive evidence that such has been true ever since the exploits of man have been recorded. Each individual nation has always claimed to be the sole judge of her rights and wrongs. It is true that nations have entered into treaties or compacts whereby certain rights have been recognized and wrongs redressed, but invariably these treaties were the result of the exhaustion of war, and only served as a precedent until some nation concluded to destroy it; when it only became a question of power and ability through the implements of war to accomplish that end. As long as the individual nations are permitted to judge their own international rights and wrongs, to build and control vast navies and armies, wars will continue. It would seem that such must be the inevitable fact. The remedy must lie in one of two alternatives; namely, to destroy the implements of warfare, or put their control in the hands of one supreme power. We must not destroy the implements of war, because man must be controlled to the extent that he shall recognize the rights of his fellow man; to accomplish this, under certain conditions, force and power must be resorted to. The other alternative, the control of these instruments in the hands of one supreme power, remains. With this subject I hope to interest my readers.

If in these pages I succeed in putting forth a single thought which suggests an idea that will be accepted by the thinking world as offering a principle upon which universal peace can be based, I shall be most happy. It is with the deepest sense of the magnitude of the problem involved, I approach the subject. I also appreciate; as an international measure, the plan I propose has no precedent, though it is somewhat analogous to the scheme of government of the internal affairs of several nations.

It is not without fear of censure and criticism that I submit my plan to the scrutiny of the world. I only hope for charitable judgment, and in mitigation of the crudity of the plan, the errors of form and substance, I plead the vastness of the field; the extenuating circumstances of dealing with an untried theory which necessarily calls for a reformation of national intercourse.

If I succeed in creating an awakening that will result in my plan being improved upon, or some other being discovered that will bring to mankind universal and perpetual peace, my effort will be more than compensated, and the censure and criticism to which I subject myself, I shall cheerfully accept as a burden and homage I owe to humanity.

The prime object of a nation is to promote the welfare of her citizens. The welfare of a nation is extended in proportion to the degree of peace and tranquillity that is enjoyed by her people. Peace stimulates industry, encourages inventive genius, and creates the opportunity for the brotherhood of man to be manifested. Peace is the only truly civilized state of man. Whenever individual man voluntarily engages in bodily or mortal conflict with his fellow man, he is in a state of intoxication. This intoxication is produced by different agencies. Sometimes it is the result of imbibing intoxicating liquors, stimulants, or narcotics. Other times it is an overpowering influence that destroys or controls his civility. Whatever the cause, the result is the same. He is in a state of intoxication.

So it is with nations; a declaration of war immediately throws the body politic into a state of intoxication. They cease to judge rationally. They are a unit in the belief that the cause

advocated by their own nation is the only one that has any justice or moral merit. They recognize that the controversy has but two sides,—a right side and a wrong side. They themselves are always on the right side. When a nation is at war with another nation, her citizens, on account of this state of intoxication, are incapable of exercising a rational judgment. It requires a sober, tranquil, and peaceful people to discern their own shortcomings.

Among the things that are essential to the welfare of a people is conservation of natural resources, adherence to moral law, and the promulgation of the police power to the end that justice shall be meted out to all alike.

War is the opposite to all those things; it is a destructive agency, whose operation always results in a net loss to the world. Some wars have resulted in a gain to the victor, but the loss to the vanquished far outweighed the gain; while many wars have resulted in no material gain to either of the belligerents.

Historians have designated certain wars as just or unjust; this, no doubt, for the lack of a better word to express their meaning. It seems to me that such is a misconception of the word "justice," because war is the whirlwind of power and brute force into which justice never enters as a controlling element.

The end sought by one nation may be a just one, but when war is resorted to as the means through which to obtain that end, there is no justice employed. In the conflict everything is sacrificed or lost sight of in the struggle for the end sought. Human rights are held inviolate only in so far as resistance and power of the opposing side preserve them.

Justice is the constant and perpetual disposition to render every man his due. In war the only thing that is ever due the enemy is death and destruction, and the innocent suffer equally with the guilty. Therefore, there is no justice in any scheme of warfare; and because man has been unable to substitute an effective means for war, neither lends justice to the scheme nor right to the cause. It proclaims his weakness and inability to conform to the demands of nature, or to create a condition so that the sanity of a world society may be maintained under all exigencies.

The absolute rights of nations may be resolved into the right of security in their dominion; the right to acquire property by mutual barter and purchase, and the enjoyment of the same; civil liberty and personal security of their citizens and the right of peaceful and free intercourse with one another. These rights can only be enjoyed under the *régime* of peace.

To sum up, all humanity hopes that something will happen that will produce universal and perpetual peace. It is more than probable that at the close of the pending European conflict, the nations involved will look favorably upon any substantial scheme that will guarantee them against a recurrence of the unfortunate struggle they are engaged in to-day.

The civilized nations of the world should agree among themselves to the establishment of a supreme government. The preliminary step would be the formation of a world congress or conclave. This body should be made up of not to exceed five representatives from each nation participating in the congress or conclave.

I think each nation, regardless of her population, should have the same representation in this preliminary body, because it would result in a freer action, inspire confidence, and safeguard against the larger nations obtaining any advantage or furnishing an opportunity for such a claim to be made.

The representatives could be select-

ed in such a manner as their nation saw fit. But a fixed time should be arrived at, when and where these representatives should assemble.

This feature, in order to expedite matters, could be arranged through the diplomatic service of the several nations.

To illustrate, the United States through the Secretary of State, could propose to the foreign representatives at Washington a formal document calling a congress of the world in which the number of representatives was fixed; the time and place of the meeting of the congress. The place should be fixed outside of the countries directly or indirectly involved in war. In this document the purpose of the congress should be clearly and concisely set forth. However, the only authority that should be conferred upon this preliminary congress is the preparation and adoption of a constitution or compact for the government of the "United Nations of the World."

Upon the adoption of the constitution, this congress should transmit to each sovereign nation of the world an authenticated copy, which would close its labors, and it would thereupon have fulfilled its mission and cease to exist as a body.

The right to amend or modify this compact should not be reserved to any nation. The only right a nation should have, would be to adopt or reject it. The law as laid down in this constitution should be self-executing, and become the fundamental law of the United Nations of the World upon its adoption by a majority of the world powers.

This document of necessity would be the greatest in the world's history. Its framers would assume the gravest responsibility that was ever conferred on men. Therefore, they would have to leave behind them all national jealousy, and be actuated in their deliberations with the highest sense of justice and equity, and be guided solely by a conscientious motive to give to the world the best that was in them.

The guiding spirit should be the creation of a system that would forever make international wars impossible. In order that such a system would live and become effective, supreme executive, legislative, and judicial authority would have to be established and maintained. Keeping in mind that the suppression of international war is the sole object sought to be accomplished, national sovereignty, dominion, or the right of each nation to govern and regulate its internal affairs and impose duties on exports and imports, could not be infringed upon. Of course this of itself would mean that no nation thereafter could acquire any additional territory by conquest, and that the dominion of each nation as recognized at the time would be maintained. The result would mean the codification of international law, as now recognized in times of peace, subject of course to such modifications as the new system would of necessity require.

These modifications would lie chiefly in the means of enforcing the same.

We have presumably a great system of international law, but we have no supreme power to regulate or enforce it. Its very existence is the result of mutual consent or comity, and whenever a nation sees fit to disregard it or give it an arbitrary interpretation to suit her own design, and adheres to such position, war is usually the final arbiter. Any rule that has no adequate, civilized means for its enforcement does not rise to the dignity of law; it is merely a creature of consent or sufferance. Whenever consent is withdrawn, or the sufferance ceases to be tolerated, power and brute force take the place of justice and equity.

Government is the most effective when its functions are administered

by the least number of branches or divisions. Therefore, I would place the government of the United Nations of the World in two bodies,—one to be clothed with legislative and executive power, the other with only judicial power.

The legislative and executive body would be a representative body chosen by their respective nations, in such manner as the nation sending them should choose. The members of this body would be chosen for a term of years as fixed by the constitution.

The judicial body might be called the "Supreme Court of the World;" its members would be chosen as provided by the constitution for life. The jurisdiction of this court would extend only to questions arising under the constitution of the United Nations of the World or involving international law.

For the purpose of designation, I shall call the legislative body the Parliament of the United Nations of the World, and vest it with the exclusive control of the Army and Navy.

Divide the nations of the world in about eight classes, placing the powers of the first magnitude in the first class, and so on down through the eight divisions. These divisions suggest themselves to me for the purposes of representation and taxation for the support and maintenance of the government. How this could be worked out in detail, I leave for another chapter.

The constitution is the vital question. If it can be so framed that its provisions will be satisfactory to three of the powers of the first magnitude, the other nations will eventually join the union by their approval.

That a constitution could be framed which the nations ought to approve is unquestionably true, but whether they would approve of it depends on whether their claims for peace are sincere enough to induce them to abandon the prerogatives which a large army and navy secures to them. Under the plan I propose, no nation shall maintain any army or navy, except sufficient to enforce and control its internal police regulation. No nation shall have power or authority to declare war against any other nation. All controversies arising between nations would have to be first submitted to the Parliament of the United Nations of the World, and if any nation was not satisfied with the result obtained, she should have the right to appeal to the Supreme Court of the World. Or if it should be deemed wiser to vest the Supreme Court of the World with exclusive jurisdiction over all controversies arising between nations, that could be done, in which case, the complaining nation would have to go into that court and prosecute its cause of action against the offending nation. In either case, the decree or judgment of the court would be final.

I would have but one large army and navy, which would be created and maintained under the provisions of the constitution, the control of which should be given exclusively to the United Parliament of the World.

This army and navy would compel obedience to the laws of the Parliament and enforce the judgment and decrees of the court. When individual nations would not be permitted to maintain large armies and navies, the army and navy of the United Nations of the World would not necessarily need to be larger than the army and navy maintained by any one of the powers of the first magnitude.

The constitution should be made the fundamental or basic law of the United Nations of the World; that no power could contravene. The right should be reserved to the Parliament to enact all laws necessary to fulfil the intent of the constitution so as to make its provisions effective.

A DISPUTED ROAD

(Contributed by James Rosser, Member of LaFayette, Georgia, Bar.)

VARIED indeed are the experiences of a lawyer. The lines below were composed by the author after an early morning call for legal advice had roused him from his sleep.

This morning I had a lively rap,
The rap was at my front door,
It aroused me well from my nap—
It came with force more and more.

I hurried and answered the call,
A man and his wife seemed lost.
There standing in new autumn-fall,
For by them I saw the new frost.

Their enquiry was about their deed
And about their disputed roadway,
About where was its legal lead,
And where the road should stay.

She said the road was well defined,
And had been since nineteen-twenty-two,
Yet a neighbor the road had declined,
And said that the road wouldn't do.

They wanted to know what was best,
And 'twas they called me from my sleep,
They said they wanted the legal test—
From their premises the neighbor must keep.

As a lawyer they came far to see me,
And to employ me to take their part—
And that I should their counsel be—
And an action they wanted to start.

I thought of the road for souls of men,
And if people would its lead dispute,
And if they follow its good trend,
Or try to follow it by legal repute.

I wondered, too, that if it were closed
Would they come to me to advise,
And take issue as to where it goes
Even though it led to the Skies.

I told them to keep the old road, still,
And to let it stay always unclosed,
Whether it led through vale or by hill,
That if they watched—there a pilgrim goes.

RE MULES

(Contributed by Guy Weaver, Asheville, N. C.)

IN Rector vs. Coal Company, 192 N. C., page 806, Justice Brogden says:

"The question of law presented by this case is, what duty does the owner of a mule owe to an employee who has charge of the mule and who goes into the stall where the mule is?

"A mule is a melancholy creature. It is a nullius filius in the animal kingdom. It has been said that a mule has neither 'pride of ancestry nor hope of posterity.' Josh Billings remarked that if he had to preach the funeral of a mule he would stand at his head. Men love and pet horses, dogs, cats and lambs. These domestic animals have found their way in literature. Shakespeare said of a horse: 'I will not change my horse with any that treads on four pasterns, when I bestride him I soar, I am a hawk; he trots the air; the earth sings when he touches it.' But nobody loves or pets a mule. No poet has ever penned a sonnet or an ode to him, and no prose writer has ever paid a tribute to his good qualities. He is kicked and cuffed, and beaten and sworn at, and frequently underfed and forced to work under extremely adverse conditions; yet, withal, he has a grim endurance and a stubborn courage which survives his misfortunes and enables him to do a large portion of the world's rough work.

"It is a matter of common knowledge among men who know mules and deal with

them, that they are uncertain, moody, and morose.

"This particular mule, charged with injuring plaintiff, was referred to in the oral argument as an 'unsafe mule,' and as an 'unsafe tool and appliance.' The idealist may dream of the day when the 'world is safe for democracy,' but this event will perhaps arrive long before the world will be safe from the heels of a mule."

HOW TO RETIRE WITH DIGNITY

MR. Napier Higgins, Q. C., on the last day of appearing as leading counsel before Mr. Justice Romer set an admirable example of how to retire with dignity. To some kind and complimentary expressions of the judge, Mr. Higgins said: "I am much obliged to your lordship." Let us imagine what it might have been: "My lord, forty years ago I came to the bar, and started in the keen competition of the profession in a room on the third floor in Old Square, with a boy who, I am proud to say, is still my clerk. That clerk has been a most invaluable servant, one of that great and honorable body of men known as law clerks, who contribute so largely to the successful administration of justice, and the comforts and emoluments of their masters. Proceeding onward, encouraged by many kind friendships, and unassisted by any merit of my own, I at length attained to the satisfactory and dignified position of a leader in one of the great historic tribunals of this country, sitting in this magnificent pile, where law and equity walk hand in hand. I cannot look back upon the many years during which I have practiced in chancery without alluding to some of the great persons whom I have intimately known. (Here follows biographical sketches of all the eminent equity lawyers of the past two generations.) Nor, my lord, can I forbear from saying with what genuine satisfaction I have watched your lordship's career. (Here follows a detailed reference to the career of the judge.) And, taking a last look round, I see so many familiar faces—faces of friends whose rivalry I have valued, and whose esteem I have done my best to deserve. (A painful pause of some moments.) My lord, farewell. May you occupy your high position for many years to come, adorning the seat you fill, and contributing to consolidate the foundations of that splendid jurisprudence which that of no other country can aspire to equal, much less surpass. (Mingled emotions and varied sounds in court.)" Compare all this with the dignified silence of the successful and fortunate man retiring from a laborious life—"I am much obliged to your lordship."—*Law Times.*

NONENTITY

(Contributor, J. Chas. Zimmerman, New York City.)

THIS is intended to be a Memorandum on the question, "May this Court render a judgment in favor of a nonentity?" It is so axiomatic that a judgment must be in favor of an existing person, persons, association or corporation, that one may as well attempt to demonstrate that the whole is greater than any part thereof. Such a discussion verges on the classical theological debate, "How many angels can dance on the point of a pin?"

In the interests of clarity and brevity, for the purposes of this memorandum I shall designate the defendant Long Beach Taxi Corp. by the name of Yehudi, to personify a nonexistent figment of an overactive imagination.

FACTS

The plaintiff, while riding in a taxicab, was injured when a collision

occurred. The plaintiff's attorney was erroneously informed that Yehudi owned the taxi, and thereupon issued a summons against Yehudi. Mary Doe accepted the summons, although her name did not appear on it, and turned it over to her attorney, and the latter carried on the masquerade by appearing and answering as the attorney for Yehudi. Only when the case was about to be tried did it come to light that neither was Yehudi the owner of the taxi nor was there any Yehudi. Plaintiff discontinued. Sequel: Yehudi, the neoplasmic phantom, now appears as a nightmare in the guise of Shylock in modern dress, and demands his pound of costs.

Quaere: Do the Courts of this State recognize the demands of ghosts, and if so, should the tender of costs be made by invisible currency or is a check written with disappearing ink acceptable?

A corporation which never came into existence is even deader than a dead corporation, and cannot be the subject of conscious thought but only in the realm of metaphysics. (See any standard text on spiritualism for the differentiation between one who has lived and passed on, and one who has never existed.)

The defendant herein is not only a non-resident of this state, but is a non-resident of this universe. The non-existence of the defendant is, in and of itself, proof that the attorney who purported to appear herein was not, and could not have been authorized to do so, for lack of anyone in existence to authorize such appearance.

A TALE

Below Mount Misery[1] lies a vale,
Where wild cats hold their revels.

To hear their concerts they put on
Reminds one of the devils.

When autumn days were bland and cool
Two lawyers seeking rest and leisure
Forsook their books and briefs
And sought the wilds for pleasure.

They spent the day in rambling o'er
The mountain's rugged breast.
When shades of night were falling round
They pitched their tent for rest.

They soon were stretched upon their beds,
Their senses lost in dreaming,
When through the painful silence came
The wild cats' dreadful screaming.

These two brave foes who oft had fought
Their legal battles through
Now coddled in each other's arms
As lovely maidens do.

They then agreed most solemnly,
This humbled, frightened pair
To offer to the King on High
A silent, earnest prayer.

As daylight kissed the mountain side,
The prayers and revels o'er,
This pair of contrite men
Besought their homes once more.

I doubt if any man there be
More humbled in his pride
Than these two legal lights who staved
Out on the mountain side.

—A. G. Farley, Poet Laureate, State of Washington.

[1] Mt. Misery is located in the Blue Mountains 25 miles South of Pomeroy, Washington.

TWO POEMS

The Steno's Lament

Motherdy:
I am sitting-myself at the type-writer, my soul
Is ill at ease, and my fingers are wandering idly
Over the noisy keys.
I am tired and weary of working,
And I fain would change my abode,
Oh that some kind friend of mine
Would help me lift my load.

The joys of a home-making woman
With children about her knees,
For there's little difference I find, dear,
'Tween spanking them and these keys.
And as for changing ribbons—
This task I do detest
It is the worser evil—
Changing diapers is best.

Dorothy
Los Angeles, California.

SOME YEARS LATER

A Sequel

Motherdy:
I'm seated today on my doorstep,
I'm still weary and ill at ease,
And my tired old hands are folded,
Upon my aching knees.
I've scrubbed and I've washed and I've dusted
The floors and the whole darn house,
And—"There! now the cat has caught it,
And I'm rid of that pesky mouse."

It is nearing the time of sunset,
And soon I must go in and cook,
But just for a moment I'll rest here,
And have a retrospective look.
A picture I see of that office,
Where as a steno I worked,
And I smile to myself as I think how
That task had rankled and irked.

I then thought a home and children
Clustered around my knees,
Would be a sure "seventh heaven"—
"Listen, Junior, stay down from the trees!"—
Now I'm tired and worn, and discouraged,
It seems years since I've had a new dress.
What with buying the school shoes for Junior,
And the new little bed for Bess.

The girls who stayed in the office
Are as clever and smart as you please,—
"Oh, remember little daughter,
To turn your head when you sneeze—"
My nails are never polished.
My hair is never waved,
And I have no so-called "leisure"
That I had always craved.

And yet, when it comes nightfall,
And I hear my baby's prayer,
As I tuck her in her little bed,
And pat her shining hair,
And my Jim comes home so hungry,
And I hear his hearty shout,
And Junior is afixin'
To step his best girl out,

There's a smell of cookin' in the air
And the whole world seems at rest.
This is the time of day, I think,
That mothers love the best.
It seems as though my cup is full
And nearly spillin', too,
I don't believe I'd care to change
To that old job. Do you?

Dorothy A. Perkins,
Los Angeles, California.

LETTER DATED 1884

Ohio State Court:

Gentlemen Sirs,—I have been injured, by being rode on a rail or pole, in this said Township, in the year of 1874: and I have been in pain ever since, and not able to earn my own living by survile labor.

I! Petition for you Ohio State Court to have the rioters or mobers be brought to justice: and I am looking for the said Township: County (Ashtabula,) or State, to pay the injury, damages, etc., their Officers and company did to me; as the Officers got them together. There were over thirty in number; in the riot or mob and the trusteese were ———. Two of them wear on the ground and the other might have been there for any thing I know of.

I believe that the Officers are holden for what their privates do. And the Nations are holden for what their Officers do.

I want for you, Ohio State Court, to proceede and pay me for the injurys etc., and bring them to justice.

I have been called a British stag and my brothers was called mofodites on the 22d day of June, 1882, by one of the mob that injured me.

Do you think, this is not any account, with Great Britton, and others sivilize and inlightened nations? Do you think that the above mention nations are going to sit down and alow their subjects be slandered like this?

DISCLAIMER

Contributors: C. C. Crabbe, Garek & Sillman, Columbus, Ohio.

A CLIENT and close friend of our firm was greatly surprised to receive a letter from a Mr. ———, the father of Mildred, requésting the payment of $785.00 alimony and arrears. The "father-in-law" expressed his best

wishes for our client's health, success and happiness, and assured him he carried no ill feeling as a result of Mildred's divorce. At our suggestion the following reply was sent:

"My dear S———

"I have your letters before me. Your kind solicitude for my success and happiness is very deeply appreciated. In this expression of thanks my dear wife, Bess, and my son, Marvin, join me. Marvin is a fine boy, in fact he is almost a man now since he will be sixteen his next birthday. Bess feels well and I hasten to assure you we are very happy.

"As to the success you so kindly wish me, you will be so glad to know I have absolutely nothing to complain about over and above the good natured normal complaint every average American citizen indulges in around March 15th.

"However, I regret to inform you that I will not under any circumstances pay the $785.00 you demand. In announcing this decision please do not think that I bear even the slightest feelings against you. There comes a time in every man's life when he must make a decision and I have made mine. I assume that you will convey this decision to Mildred, whom I have never had the pleasure of meeting.

"Sincerely yours,
"S. L. J———."

BYLES ON HORSEFLESH

MANY are the stories told of Sir John Byles when at the bar and on the bench. His horse figures in several of them. When he was at the bar he had a horse, or rather a pony, which used to arrive at King's Bench Walk every afternoon at three o'clock. Whatever his engagements, Mr. Byles would manage by hook or by crook to take a ride, generally to the Regent's Park and back, on this animal, the sorry appearance of which was the amusement of the Temple. This horse, it is said, was sometimes called "Bill," to give opportunity for the combination "there goes Byles on Bills;" but if tradition is to be believed, this was not the name by which its master knew it. He, or he and his clerk between them, called the horse "Business;" and when a too curious client asked where the Serjeant was, the clerk answered with a clear conscience that he was "out on Business." When on the bench, Mr. Justice Byles' taste in horseflesh does not seem to have improved. It is related of him that in an argument upon section 17 of the Statute of Frauds he put to the counsel arguing a case, by way of illustration: "Suppose, Mr. So and So," he said, "that I were to agree to sell you my horse, do you mean to say that I could not recover the price unless," and so on. The illustration was so pointed that there was no way out of it but to say, "My Lord, the section applies only to things of the value of 10 pounds," a retort which all who had ever seen the horse thoroughly appreciated.

A learned counsel on one occasion was pleading a cause before Sir John Byles and made a quotation from a work, "which," said he, "I hold in my hand, and is commonly called 'Byles on Bills.'" Sir John Byles: "Does the learned author give any authority for that statement?" Counsel, referring to the work: "No, my Lord, I cannot find that he does." Sir John Byles: "Ah! then do not trust him; I know him well."

SHOT AT SUNRISE

A SUBSCRIBER to many of our publications, over the years, asks us should he be shot at sunrise or sooner for writing to the clerk of an appellate court a letter like this:

"I am in a philosophical and detached mood, which leads me, like a sleepwalker, along a certain path. Here it is:

"Unquestionably in almost any case before it, this Court can find logic and law to sustain any position it

wishes to take. And unquestionably there is an impelling force in the crucible of the mind besides the science of logic that determines the mold in which its conclusions shall be expressed. This impelling force is the master of logic. According to that force, the mind reaches out and grasps one premise or another as a springboard by which it argues to a certain conclusion. The result may be logical in effect, but the starting point whereby it was obtained was the impelling force over and above logic.

"This impelling force goes back into the roots of one's being, as far back as Adam, and is built upon by the vicissitudes of life to the very moment of decision. If it were not for such impelling force in the mind we would have no such contradictions as a Roosevelt and a Lindbergh, a Democratic and a Republican party, a Churchill and a Hitler, a religionist and an agnostic, a plaintiff and a defendant, etc. That impelling force might be called human-nature, which is as variant as the lives of men. The impelling forces behind us are so dark and mysterious that no person hardly knows himself and the initial whys and wherefores of his conduct in life. And that is why we must watch ourselves where we wish to conform our actions to a certain pattern: there may be conflict between the impelling forces within us and the pattern before us. Sometimes in such a situation a friend can be of help.

"In that spirit I respectfully suggest to this Court that the ruling in this case, calmly considered, should prompt the Court to take stock of itself and its impelling forces. We all know it is not the purpose of this Court to build to a ragged, torn and bedaubed pattern of justice. We all know that the pattern it has set itself is fair dealing between men, which is justice, and of which, without legal training, we all have good understanding. The Court is human and its background is as that of other men. It needs not only legal but human help in making its pattern.

"If one has a right, respectfully, to speak his mind to the courts, as well as to the President of the United States, I may not be shot at sunrise for what I have said. We shall see."

WOMAN LAWYER'S TRIALS

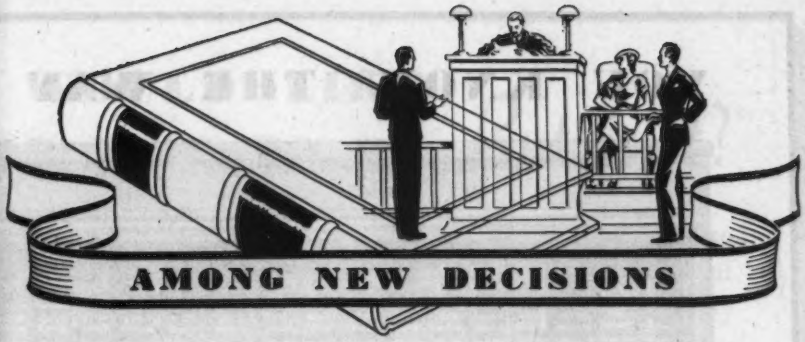
Contributed by Mrs. Ruth M. Short, Wartburg, Tenn.

I AM writing this letter to you for help and advice. This is what I want. I have been married eleven months to a real good man 56 years old, and he wants us to have a baby of our own. I am only 45 but I can't have one, and to keep him looks like I must do something. He thinks I am that way now and can or will you help me to get a new born baby. I can come up there and he will think it is ours. He has got plenty to take good care and give a child a good home and be crazy about one. I want to get a baby with blue eyes, blond hair and big ears.

Let me know by return mail what you think about this matter and if you will help me I will pay you for your trouble.

I hope that you know of a home where we can get the baby.

Trusting to hear from you soon as I want to get this matter fixed up by the last of this month or early in December.



AMONG NEW DECISIONS

Amusements — *injury to patron of bowling alley.* In McGillivray v. Eramian, 309 Mass 430, 35 NE (2d) 209, 141 ALR 1313, it was held that the proprietor of a bowling alley owes a duty to patrons to exercise reasonable care to keep the premises in a reasonably safe condition for the use for which they are intended.

Annotation: Liability of proprietor of bowling alley for injury to patron. 141 ALR 1315.

Amusements — *injury to spectator at ball game.* In Hudson v. Kansas City Baseball Club, — Mo —, 164 SW (2d) 318, 142 ALR 850, it was held that a spectator, sixty-five years of age, at a professional baseball game, who was struck by a foul ball while occupying a reserved seat outside the section protected by wire screening, accepted the risk and cannot hold the proprietor liable where, though not a baseball "fan," he was more than a casual attendant and was familiar with the fact that part of the reserved section was not screened and that there was constant hazard of foul balls, notwithstanding his contention that the defendant was negligent in failing to protect the portion of the grandstand where he was seated, in selling reserved seats without notice that some of them were not screened, and seating him at the unprotected place.

Annotation: Liability to spectator at baseball game who is hit by a ball or injured as result of other hazards of the game. 142 ALR 868.

Assault and Battery — *recovering possession of property.* In State v. Carroll, 239 Wis 625, 2 NW (2d) 211, 141 ALR 244, it was held that the fact that one not in possession of land is lawfully entitled thereto does not prevent him from being criminally liable for an assault committed in forcibly ejecting one who is in peaceable possession thereof.

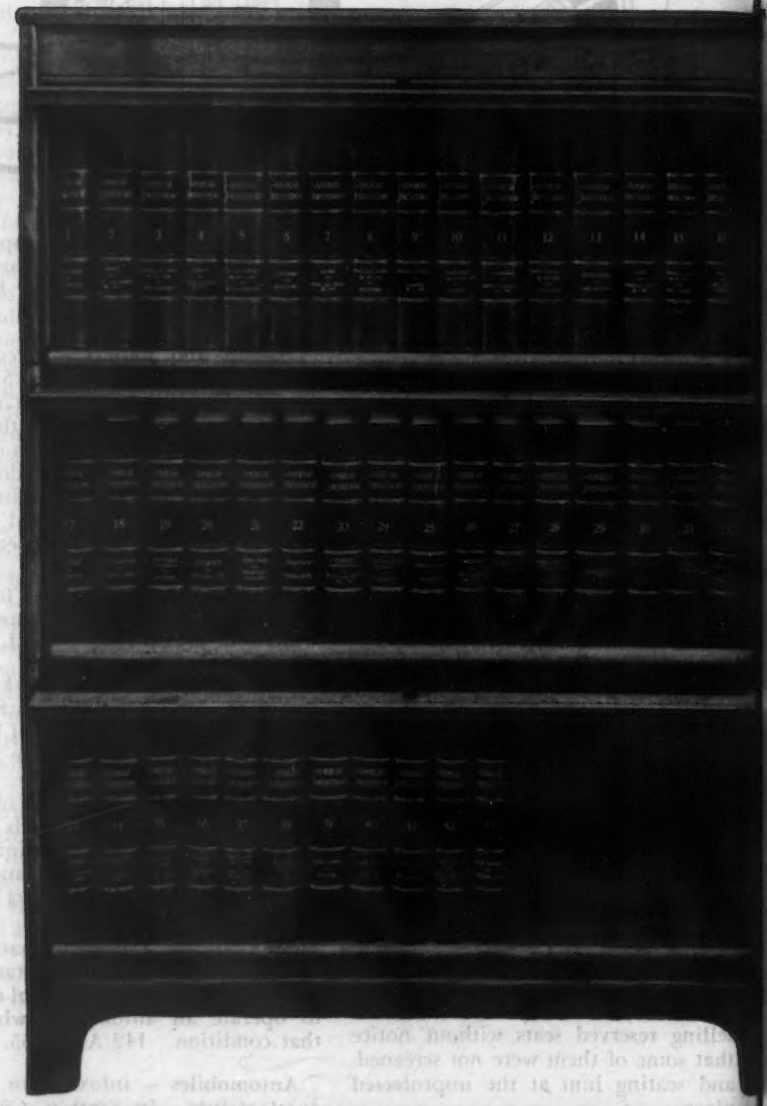
Annotation: Right to use force to obtain possession of real property to which one is entitled. 141 ALR 250.

Automobiles — *driving while intoxicated.* In Harrell v. Norfolk, — Va —, 21 SE (2d) 733, 142 ALR 550, it was held that one is under the influence of intoxicating liquor, within a statute making it unlawful to drive a motor vehicle while in such a condition, where he is under the influence both of intoxicating liquor and of a drug prescribed for him by a physician.

Annotation: Degree or nature of intoxication for purposes of statute or ordinance making it a criminal offense to operate an automobile while in that condition. 142 ALR 555.

Automobiles — *intoxication under guest statute.* In Scott v. Gardner,

YOU KNOW THE WAY



137 Tex 628, 156 SW (2d) 513, 141 ALR 50, it was held that drunkenness of the owner or operator of an automobile which has not made him unconscious or entirely helpless does not absolve him from liability under a statute conditioning liability for personal injuries to a guest upon heedlessness or reckless disregard of the rights of others.

Annotation: Intoxication of defendant as defense to action under automobile guest statutes. 141 ALR 58.

Bills and Notes — *payee as holder in due course.* In Wabash Valley Trust Co. v. Fisher, — Ind —, 41 NE (2d) 352, 142 ALR 486, it was held that the payee of a note may be a holder in due course under the Uniform Negotiable Instruments Law providing that an instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof; and if payable to bearer it is negotiated by delivery; if payable to order it is negotiated by the indorsement of the holder completed by delivery.

Annotation: Payee as holder in due course under Negotiable Instruments Law. 142 ALR 489.

Bills and Notes — *payment to joint obligee.* In Cober v. Connolly, 20 Cal (2d) Adv p 777, 128 P (2d) 519, 142 ALR 367, it was held that the provision of the Code that payment to one of two or more payees extinguishes the obligation applies to payment in services or merchandise to one of the three joint obligees in a promissory note, or to a third person at the direction of one of the payees, notwithstanding the payee to whom or at whose direction the payment was made does not account to the other payees therefor and is insolvent, there being no claim that the debtors do not give value or that they have any knowledge of the failure to account to the other payees.

Annotation: Discharge or settlement by, or payment to, one partner or co-obligee, as affecting rights of others. 142 ALR 371.

Brokers — *owner's ignorance of broker's procurement of customer.* In Lasoya Oil Co. v. Jarvis, — Okla —, 127 P (2d) 142, 142 ALR 270, a broker living in Oklahoma contacted two successive prospective purchasers of property belonging to a corporation which conducted its business through officers in Pennsylvania. Without solicitation on the part of the property owner he successively submitted offers from purchasers and undertook to negotiate a sale of the property with the understanding that he receive from the property owner a broker's commission if such sale should be consummated. Later he contacted another prospective purchaser (who had previously been interested in purchasing the property). He submitted no offer by this purchaser and did not otherwise communicate his activity with the owner. Subsequently the owner sold direct to the latter prospective purchaser, without knowledge that the broker had interviewed him. Held: that by reason of the contract and conduct of the broker the owner was under no obligation to make inquiry of him to protect himself from liability for a commission and that the owner was not liable for such commission.

Annotation: Real-estate broker's right to commissions as affected by owner's ignorance of fact that purchaser had been contacted by broker. 142 ALR 275.

Constitutional Law — *comparative negligence statute.* In Loftin v. Crowley, Inc., — Fla —, 8 So (2d) 909, 142 ALR 626, it was held that the fact that a comparative negligence statute,

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enacted in 1891, under which a railroad is liable for its negligence despite the contributory negligence of the plaintiff, although allowed a proportionate reduction in the damages, is applicable to railroads only, and does not apply to motor carriers, does not make it a denial of the equal protection of the laws; and this would be true even if it had been enacted in later years after the advent of motor carriers.

Annotation: Statute abolishing or modifying contributory negligence rule in certain class of cases or situations, as denial of equal protection of the laws. 142 ALR 631.

Courts — *amount in controversy in trust suit.* In Boesenberg v. Chicago Title & Trust Co. 128 F (2d) 245, 141 ALR 565, it was held that the jurisdictional amount involved in a suit by an individual beneficiary of a trust on behalf of all of the numerous beneficiaries depends upon the value of the interests in the trust sought to be protected and not upon the value of the interest of the individual beneficiary who brings the suit.

Annotation: Value of property or right involved in class suit, value or interest of individual in whose name suit is brought, or value of aggregate interests of members of class, as criterion of jurisdictional amount. 141 ALR 569.

Covenants and Conditions — *enforcement by grantees of other lots.* In Rowbotham v. Jackson, — SD —, 5 NW (2d) 36, 142 ALR 193, it was held that a stipulation in a deed of one lot by an owner of two adjoining lots, prescribing the kind of building that may be erected on the conveyed lot, and providing that, if the restrictions are violated, "all right and title shall revert to the grantors," constitutes a condition subsequent, rather than a covenant running with the land, and is therefore not enforceable by subsequent grantees of the other lot.

Annotation: Provisions of deed restricting type of buildings or other use of property, as covenant or condition. 142 ALR 197.

Declaratory Judgment — *cancelation of insurance policy.* In Trinity Universal Insurance Co. v. Willrich, — Wash (2d) ——, 124 P (2d) 950, 142 ALR 1, it was held that the validity and sufficiency of a cancelation of an automobile liability policy by the insurer, under a provision in the policy for cancelation by the insurer by mailing written notice to the insured at the address shown in the policy, such mailing to be sufficient proof of notice of the cancelation, is a proper subject for a suit by the insurer for a declaratory judgment determining its rights and liabilities on the policy, where, after the mailing of notice of cancelation, the insured was involved in an accident, and persons injured or killed therein are asserting rights against the insurer under the policy upon the ground that the cancelation was never effective because the notice was never actually received by the insured.

Annotation: Application of declaratory judgment acts to questions in respect of insurance policies. 142 ALR 8.

Declaratory Judgments — *doctrine of pari delicto as applied to.* In Moss v. Moss, 20 Cal (2d) Adv p 708, 128 P (2d) 526, 141 ALR 1422, it was held that the doctrine of in pari delicto, even if not an absolute bar to an action for declaratory relief from a contract alleged to be in violation of public policy, is nevertheless an element which the trial court may in its discretion consider in deciding whether or not to grant such relief to a husband from a property settlement contract the sole consideration for which was an agreement to obtain a divorce.

Annotation: Doctrine of in pari delicto as applicable to suits for declaratory relief. 141 ALR 1427.

Deeds — *sufficiency of delivery.* In Seibert v. Seibert, 379 Ill 470, 41 NE (2d) 544, 141 ALR 299, it was held that placing a deed in the hands of a grantee does not constitute a delivery thereof, where it is shown to be the intention of the parties that the deed is not to become operative immediately, and where such intention is evidenced by continued acts of ownership and operation.

Annotation: Conclusiveness of manual delivery of deed to grantee as an effective legal delivery. 241 ALR 305.

Divorce and Separation — *independent suit for alimony.* In Heflin v. Heflin, 177 Va 385, 14 SE (2d) 317, 141 ALR 391, it was held that a court of equity has jurisdiction to entertain a suit for alimony or separate maintenance, even where no divorce is sought, and this jurisdiction is not impaired or abridged by the divorce statutes.

Annotation: Jurisdiction of equity courts in the United States, without the aid of statute expressly conferring it, to entertain independent suit for alimony or separate maintenance without divorce or judicial separation. 141 ALR 399.

Easements — *express grant of light and air.* In Hopkins the Florist, Inc. v. Fleming, — Vt —, 26 A (2d) 96, 142 ALR 463, it was held that the extent of the right to light, air, and view, when claimed under an express grant or reservation, must depend entirely upon the construction of the terms of the conveyance, except as affected by special statutory regulations.

Annotation: Express easements of light, air, and view. 142 ALR 467.

Estoppel — *by receipt of benefits from adoption.* In Jones v. Guy, 135 Tex 398, 143 SW (2d) 906, 142 ALR 77, it was held that adoptive parents and those in privity with them are precluded from questioning the status of the adopted child as such when by performance upon the part of the child in a belief, induced by their representations, in the existence of such status, the adoptive parents have received all the benefits and privileges accruing from such performance, and this irrespective of whether the parents have executed a deed of adoption which is ineffective as such.

Annotation: Specific performance of, or status of, child under contract to adopt not fully performed by compliance with conditions of adoption statute; estoppel. 142 ALR 84.

Evidence — *burden of proof as to excepted risk from violation of law.* In O'Neill v. Metropolitan Life Insurance Co. — Pa —, 26 A (2d) 898, 142 ALR 735, it was held that the burden of proof resting upon plaintiff in action to recover the added indemnity in event of accidental death, provided by riders to life policies, includes negativing death from the cause or in the circumstances contemplated by the clause following the affirmative coverage provision, "provided" that death shall not have resulted from bodily injuries sustained "as the result of violation of law by the insured," or "while or as a result of participating in or attempting to commit an assault or felony."

Annotation: Burden of proof, in action upon an accident policy or accident feature of life policy, as regards conditions which, by the terms of the policy, limit or exclude coverage. 142 ALR 742.

Evidence — *communication to attorney in presence of third party.* In Baldwin v. Com. of Internal Revenue, 125 F (2d) 812, 141 ALR 548, it was

held that the presence of a third person destroys the privilege attaching to communications between attorney and client where the dispute is between the parties to the conference with the attorney, but does not do so where the dispute is between one of them and a third person not claiming under either.

Annotation: Attorney-client privilege as applied to communications in presence of two or more persons interested in the subject matter to which the communications relate. 141 ALR 553.

Evidence — *declarations of employee.* In Couch v. Hutcherson, — Ala —, 8 So (2d) 580, 141 ALR 697, it was held that a post rem statement out of court by a servant to the effect that he knew before the accident that the brakes on the truck which he was driving were out of order is inadmissible as evidence in chief against the master in a death action involving a charge of wanton and wilful injury, under the general rule that excludes as against a principal an out-of-court statement by an agent, if not admissible as res gestae or for impeachment purposes, there being no difference in principle between such a post rem statement as to a physical fact and as to mental state.

Annotation: Extrajudicial declarations of agent as admissible in action against principal for personal injuries for purpose of showing knowledge of relevant fact or condition at or prior to time of injury. 141 ALR 704.

Evidence — *identity of parties as to former testimony.* In Bartlett v. Kansas City Public Service Co. — Mo —, 160 SW (2d) 740, 142 ALR 666, it was held that it is not necessary, in order to render admissible in a later proceeding testimony taken in a former proceeding, that the parties in the two proceedings be absolutely identical, but it is enough if their interests are identical.

Annotation: Identity of parties as condition of admissibility in civil case of testimony or deposition in former action or proceeding of witness not available in present action or proceeding. 142 ALR 673.

Executors and Administrators — *annuity contract as assets.* In Re Succession of Rabouin, — La —, 9 So (2d) 529, 142 ALR 605, it was held that the cash value of refund payments upon death of annuitant survived by a beneficiary is to be treated as part of the annuitant's estate for purpose of computing the disposable portion of his estate under the law of forced heirship, where the annuity contract provides for continuance of monthly payments to named beneficiary if the sum of monthly payments to the annuitant shall be less than the consideration, and for the payment of a commuted cash amount to executors if both annuitant and beneficiary die before the total payments equal the consideration, provision also being made for a cash surrender value after two years if the sum of the annuity payments do not equal the consideration.

Annotation: Refund under annuity contract upon death of annuitant as part of his estate for purposes of forced heirship or statute limiting amount of disposable estate of decedent survived by spouse or child. 142 ALR 609.

Gaming — *who is casual bettor.* In Bamman v. Erickson, 288 NY 133, 41 NE (2d) 920, 141 ALR 938, it was held that a casual bettor within the rule that permits such person to recover gambling losses from the winner, under statute expressly declaring that any person who shall pay any money upon the event of a wager or bet prohibited may sue and recover

the same of the winner or person to whom the same shall be paid or delivered, is an individual who has not been guilty of betting and gambling organized and carried on as a systematic business in a manner which the law makes criminal; one is not denied that status because he is an inveterate regular bettor.

Annotation: Who is nonprofessional or casual gambler within statute relating to recovery of gambling losses which in terms or by construction distinguishes between professional and nonprofessional or casual gamblers. 141 ALR 941.

Income Taxes — *accrued income at death of taxpayer.* In Bach v. Rothensies, 124 F (2d) 306, 142 ALR 210, it was held that the income of a trust, accrued, but not received by either the trustee or the beneficiary, should be included in an income tax return filed by the latter's executor, upon his death during the taxable year, under the provision of the Revenue Act of 1934 (§ 42) that, in case of the death of a taxpayer, there shall be included, in computing his net income for the taxable period in which falls the date of his death, amounts "accrued" up to such date; although both the decedent and the trust maintained books of account on a cash receipts and disbursements basis.

Annotation: Income tax on income of taxpayer who dies during taxable year. 142 ALR 213.

Judgment — *conclusiveness between tort-feasors.* In American Motorists Insurance Co. v. Vigen, — Minn —, 5 NW (2d) 397, 142 ALR 722, it was held that ordinarily, parties to a judgment are not bound by it in a subsequent controversy unless they were adversary parties in the original action; but where some issue was determined in the original suit which is an essential element in a cause of action subsequently arising between such coparties, the original adjudication of such issue is conclusive between them. Therefore, in an action for personal injuries against two defendants, where one was adjudged not liable to the plaintiff and the other one was, and the latter, having paid the judgment against him, sought contribution from the successful defendant, it is held that the judgment in the original action was conclusive that there was no liability of the successful defendant to the original plaintiff and hence no common liability as to him upon which a suit for contribution could be based.

Annotation: Judgment for plaintiff in action in tort or contract against codefendants, as conclusive in subsequent action between codefendants as to the liability of both or the liability of one and the nonliability of the other. 142 ALR 727.

Labor Unions — *mandamus to restore member.* In Nissen v. International Brotherhood of Teamsters, etc., 229 Iowa 1028, 295 NW 858, 141 ALR 598, it was held that mandamus is a proper remedy to compel the reinstatement of one expelled from a labor union, where the hearing on such expulsion, being had on short notice and without the filing of specific charges, and otherwise in violation of the union's constitution, is wrongful and unlawful, and without jurisdiction.

Annotation: Mandamus to compel reinstatement of suspended or expelled members of labor union. 141 ALR 617.

Landlord and Tenant — *harvesting crops after expiration of lease.* In Miller v. Gray, 136 Tex 196, 149 SW (2d) 582, 142 ALR 1237, it was held that the fact that, because of an unusually wet season, a tenant, under a

lease for one year, is unable to gather all of his crops before the expiration of the lease, does not entitle him, under the doctrine of emblements, to continue in uninterrupted possession of the land until the crop is gathered, where the lease is for a definite term, and there is no uncertainty in the date of its expiration.

Annotation: Rights, as between landlord and tenant, in respect of crops unharvested at expiration of tenancy (doctrine of emblements). 141 ALR 1240.

Limitation of Actions — *part payment by subsequent grantee.* In Frost v. Johnson, 140 Ohio St 315, 43 NE (2d) 277, 142 ALR 609, it was held that a payment by a subsequent grantee on a mortgage indebtedness assumed by him does not toll the statute of limitations as to the mortgagor when the latter neither participates in nor has knowledge of such payment.

Annotation: Limitation of actions: acknowledgment, new promise, or payment by grantee of mortgaged premises. 142 ALR 615.

Limitation of Actions — *Unidentified check.* In McPhilomy v. Lister, 341 Pa 250, 19 A (2d) 143, 142 ALR 885, it was held that checks given by a debtor to a creditor, but not on their face identified in any way with the debt, are not a part payment on the debt sufficient to toll the statute of limitations, although the evidence also includes letters, in one of which one of the checks was inclosed, stating that: "I will no doubt be able to get you $100 in a week or ten days" and "there is inclosed a check for $100 which I trust will in many ways help you out, it is the best I can do at present," and a third party testifies that at a time shortly before the mailing of the check the debtor, now deceased, stated to him that he owed some money to the creditor, although not as much as she thought.

Annotation: Necessity and sufficiency of identification of part payment with the particular debt in question, for purposes of tolling, or removing bar of, statute of limitations. 142 ALR 389.

Malpractice — *expert evidence to prove.* In Richeson v. Roebber, — Mo —, 159 SW (2d) 658, 141 ALR 1, it was held that expert evidence is not essential to establish a physician's liability for malpractice, where it is shown by other evidence that he used a method of treatment which he knew was not practical under the circumstances and would not accomplish a satisfactory result, that an X-ray taken by another physician showed the treatment to have been very unsatisfactory, and that a subsequent operation by such physician was a success.

Annotation: Necessity of expert evidence to support an action for malpractice against a physician or surgeon. 141 ALR 5.

Money Lenders — *clean hands doctrine of equity.* In Ryan v. Motor Credit Co., — NJ —, 28 A (2d) 181, 142 ALR 640, it was held that the purpose of the Small Loan Act is to protect small loan borrowers from usury of the lender, but none of its provisions diverts equity from the maxim that he who seeks equity must do equity and have clean hands, as applied to a suit in which the borrower seeks affirmative relief because of violation of the act.

Annotation: Doctrine of in pari delicto as applied to borrower seeking affirmative relief from loan contract made in violation of small loan act. 142 ALR 644.

Municipal Corporations —*Liability for meter box in street.* In Harms v. Beatrice, — Neb —, 5 NW (2d) 287,

142 ALR 239, it was held that a service line from a water main to the property of a consumer, including a meter box constructed in a public street, is a part of the waterworks system of the city which it must construct and maintain in a reasonably safe condition for the protection of the public.

Annotation: Liability of municipality or waterworks company for injury due to condition of service line, meters, etc., which supply individual consumer with water. 142 ALR 243.

Municipal Corporations — *ordinance against sale of religious books.* In Jones v. Opelika, 316 US 584, 86 L ed 1691, 62 SCt 1231, 141 ALR 514, it was held that a state or municipality may, without violation of the constitutional guaranties of freedom of religion and freedom of speech and press, exact a reasonable and nondiscriminatory license fee from religious adherents engaged in the sale of religious books and pamphlets through the ordinary methods used in commercial canvassing.

Annotation: Constitutional guaranty of freedom of religion as applied to license taxes or regulations. 141 ALR 538.

Municipal Corporations — *power to convey.* In Buckhout v. City of Newport, — RI —, 27 A (2d) 317, 141 ALR 1440, it was held that a municipal corporation has no inherent power to convey property devoted to a public use and it cannot, on the theory that the transaction involves a mere change of public use, sell property previously used as a fire station to a historical society for the storage and exhibition of articles of historical interest.

Annotation: Implied or inherent power of municipal corporation to sell its real property. 141 ALR 1447.

Negligence — *contributory negligence of blind person.* In Smith v. Sneller, 345 Pa 68, 26 A (2d) 452, 141 ALR 718, it was held that it is not negligence per se for a blind person to go unattended upon the sidewalk of a city, but in doing so he should have in mind his own unfortunate disadvantage and do what a reasonably prudent person in his situation would do to ward off danger and prevent an accident. But one whose vision is so defective that he could not see a ditch which was being dug across a sidewalk, the presence of which was indicated by piles of dirt and by a barrier on the further side, is as a matter of law guilty of contributory negligence in walking along the street without using any of the common compensatory devices for the blind, such as a cane, a "seeing-eye" dog, or a companion.

Annotation: Liability for injury to pedestrian due to condition of street or highway as affected by his blindness or other physical disability. 141 ALR 721.

Negligence — *injury to fireman.* In Mulcrone v. Wagner, — Minn —, 4 NW (2d) 97, 141 ALR 580, it was held that where plaintiff, a member of the St. Paul Bureau of Fire Prevention, whose duties were fixed by ordinance, entered upon defendant's premises in his official capacity and not in the discharge of any private duty due from him to defendant but only that which he owed the public, defendant, as the occupant of the premises, was not liable for an injury sustained by plaintiff as the result of an obviously defective condition in an inside stairway not used or maintained for the public.

Annotation: Duty and liability of owner or occupant of premises to fireman or policeman coming thereon in discharge of his duty. 141 ALR 584.

Public Contracts — *necessity for competitive bidding for professional services.* In State v. McIlhenny, — La —, 9 So (2d) 467, 142 ALR 533, it was held that a contract for professional services, such as the services of a landscape architect, is not within a statute requiring the letting of public contracts through advertisements and competitive bidding.

Annotation: Contract for services as within requirement of submission of bids as condition of public contract. 142 ALR 542.

Sale — *effect of OPA regulations.* In Re Kramer & Uchitelle, Inc., 288 NY 467, 43 NE (2d) 493, 141 ALR 1497, it was held that complete frustration of performance of a sale contract excusing the seller from performance as matter of law results from the action of Price Administrator, after the contract was made but before the time fixed for delivery, establishing a price below the contract price and declaring that no person shall buy or accept delivery or offer to buy or accept delivery of the goods at a price exceeding the maximum price set, regardless of any commitment theretofore entered into.

Annotation: Price ceiling, adopted as war measure, as affecting pre-existing contracts. 141 ALR 1502.

Sale — *recording sufficiency of statement.* In York Ice Machinery Corp. v. Kearney, 344 Pa 659, 25 A (2d) 179, 141 ALR 1280, it was held that a statute making a condition of the right to record a contract of conditional sale of goods to be annexed to realty by the purchaser, that it embody a statement "briefly describing the realty and stating that the goods are, or are to be, affixed thereto," is satisfied by a statement which uses the word "placed" instead of the statutory word "affixed."

Annotation: Right of seller of fixtures retaining title thereto or lien thereon as against purchasers or encumbrancers of the realty. 141 ALR 1283.

Workmen's Compensation — *injury to minors.* In Bloomer Brewery, Inc. v. Industrial Com. 239 Wis 605, 2 NW (2d) 226, 142 ALR 1015, it was held that a minor unlawfully employed in an occupation prohibited to minors under the age of eighteen years is not estopped to assert a claim for treble compensation, under a provision of a workmen's compensation law for the award of treble compensation for an injury to a minor unlawfully employed in violation of the labor laws, by reason of the fact that, in order to obtain the employment, the minor fraudulently represented that he was over eighteen years of age, and presented a statement, falsely purporting to be signed by his father, consenting to his employment and falsely stating that he was eighteen years of age.

Annotation: Applicability and effect of workmen's compensation act in cases of injury to minors. 142 ALR 1018.

Workmen's Compensation — *persons within act.* In Eaton v. Bernalillo County, — NM —, 128 P (2d) 738, 142 ALR 647, it was held that one who at the request of the duly appointed deputy sheriff directed traffic at the scene of an automobile accident while the deputy was taking injured persons to the hospital was not an employee of the county within the Workmen's Compensation Act so as to sustain a claim, under that act, based on his death from an injury sustained when he was struck by a passing car.

Annotation: One temporarily impressed into public service in emergency, as within workmen's compensation act. 142 ALR 657.

THE HUMOROUS SIDE

Religion Pays. Nineteen years after due date came a telephone call stating that the debtor's name was "Satisfied Love" now, and that she was an adherent of Father Divine's religious sect and that payment would clear her conscience for a debt long overdue.

Contributor: Brownstein and Brownstein.
Jamaica, New York.

Type Mix-up.

"Four-year-old Vivian Miller, kidnaped from her San Francisco wife who 'always wanted a home by an ex-convict and his child,' was reunited with her mother tonight at the city pail."

—Oregon Paper.

Contributor: George Codding.
Medford, Oregon

Men. "Men are what women marry. They have two feet, two hands, and sometimes two wives, but they never have more than one dollar and one idea at a time.

"Like Turkish cigarettes, men are all made of the same material, the difference is that some are a little better disguised than others. Generally speaking they may be divided into three classes—(1) Husbands, (2) Bachelors, (3) Widowers. An eligible bachelor is a man of obstinacy, entirely surrounded by suspicion. Husbands are of three varieties: Prizes, sur-prizes, and consolation prizes. Making a husband out of a man is one of the highest plastic arts known to civilization. It requires science, sculpture, common sense, faith, hope and charity.

"It is a psychological miracle that a soft, fluffy, tender, violet-scented, sweet little thing like a woman should enjoy kissing a big, awkward, stubby-chinned tobacco and bay-rum scented thing like a man.

"If you flatter a man, you frighten him to death; if you don't you bore him to death. If you permit him to make love to you, he gets tired of you in the end, and if you don't he gets tired of you in the beginning. If you believe all he tells you, then he thinks you are foolish, and if you don't he thinks you are a cynic.

"If you wear gay colors, rouge and a startling hat, he hesitates to take you out. If you wear a little brown turban and a tailor-made suit, he takes you out and stares all evening at a woman in gay colors, rouge and wearing a startling hat.

"If you join the gayeties and approve of his smoking and drinking, he says you are driving him to hell; if you don't approve he vows that you are snobbish.

"If you are the clinging vine type, he doubts whether you have any brains, and if you are a modern, advanced and intelligent woman, he doubts whether you have a heart. If you are silly he longs for a bright mate, and if you are intelligent and brilliant, he longs for a playmate.

"A man is just a worm in the dust; he comes along, wriggles about for a time and finally some chicken grabs him."—*Texas Titles.*

How to Keep Friends. "Miss Jones," said the lawyer, "I may say that you're a very attractive girl."

"Really!" said the typist, blushing.

"You dress well; your voice is well modulated; your deportment is also beyond reproach."

"You really mustn't pay me so many compliments," she protested.

"Oh, that's all right! I only wanted to put you in a cheerful frame of mind before taking up the matter of punctuation and spelling."—*Exchange.*

Maybe. The woman autoist posed for a snapshot in front of the fallen pillars of an ancient temple in Greece.

"Don't get the car in the picture," she said, "or my husband will think I ran into the place."—*Cosgrove's.*

Estate Shrinkage. Near the end of an appraiser's return to the Probate Court appeared the following: "One quart of Scotch whiskey." The next item was: "One revolving oriental rug."—*So. Dak. Bar Journal.*

Challenge. (AP)—Notice: "Man who jacked up my automobile and stripped it of its tires was seen. If the tires are returned within 24 hours no questions will be asked. Signed: Ulysses N. Owen."

The next day this appeared below it:

"The guy who saw me take those tires can have same by calling at my house for them. I won't ask no questions, either."

It was unsigned.

—*From the Cleveland Plain Dealer.*

Quick Accounting. A lawyer, whose wife was somewhat reckless in her spending asked her to keep a written account of her money, in and out. She agreed it was fair. So he bought her a little notebook; on the left-hand pages she was to list the money he gave her, with dates and amounts. On the right-hand pages she was to list the money spent, with dates and what for.

At the end of the month he looked at her book. At the left, sure enough, the amounts were meticuously entered in beautiful script, with dates. All was letter-perfect, in apple-pie order.

He felt much encouraged.

But when his eyes shifted to the right-hand page, he realized that he was dealing with someone who, for better or worse, was his equal. On that page, in a lovely feminine hand, the little woman had written three words, "Spent It All."—*Cosgrove's.*

Kind to Animals. Mother: "Now, before you get serious with him be sure that he is always kind."

Daughter: "Oh, I'm sure he is. I heard him say he put his shirt on a horse that had been scratched."—*Exchange.*

Costly Attachment. Salesman: "Can I interest you in an attachment for your typewriter?"

Executive: "Nothing doing. I'm still paying alimony on the strength of the attachment I had for my last one."—*Exchange.*

Descriptive. First Chorus Girl: "Believe me, the next dance job I get will be in Hawaii."

Second ditto: "Why?"

First Chorus Girl: Because all those Hula dancers do is to stand around and twiddle their tums."

Second ditto: "You could never get away with it. You're bustle bound."

—*Exchange.*

The Day of Rest. "Well, Arthur, where is your father today?" said the minister to a small boy who was entering the church alone.

Boy: "He went out to the Gun Club."

Minister: "You don't mean to say that he is shooting on Sunday?"

Boy: "Oh, no, he wouldn't do that. He just went out for a couple of highballs and some stud poker."—*So. Dak. Bar Journal.*

Once We Had Pleasure Driving. He: "You look lovelier every minute. Do you know what that is a sign of?"

She: "Sure, you're about to run out of gas."—*Exchange.*

The Typographical Error

The typographical error is a slippery thing and sly;
You can hunt it till you get dizzy, but it somehow will get by.
Till the forms are off the presses it is strange how still it keeps;
It shrinks down into a corner, and it never stirs or peeps.

That typographical error, too small for human eyes,
Till the ink is on the paper, when it grows to mountain size.
The boss, he stares with horror, then he grabs his hair and groans;
The copy reader drops his head upon his hands and moans—

The remainder of this issue may be clean as clean can be,
But that typographical error is the only thing you see.—*The Viking Vacuum.*

An Old World. In some of the counties, just outside of Cuyahoga, Ohio, there are very few aliens and consequently, very few naturalization hearings are held in them during the year. The Judge personally takes over the examination and quizzes the applicant for citizenship from the witness stand.

W. T. Schockley, member of the Cleveland

Bar and former District Director of Naturalization, tells this one about a naturalization hearing in the Common Pleas Court at Medina:

Hans, a German, was being examined. Said the Judge: "What is an anarchist?"

Hans swept slowly around in his swivel chair and peered out searchingly over the other candidates and their witnesses in the court room. After he had satisfied himself with the survey, he rose slowly from his chair, stretched out toward the Judge and with his hand cupped to his mouth, whispered. "S . . sh! Dot is an Italisher mon."

—*Cleveland Bar Asso. Journal.*

Transatlantic Discipline. The Army builds respect for superiors and *P M.* has proof of that.

Hanley Stafford, who is Daddy to Baby Snooks on the Maxwell House Coffee Time program, has a son in the RCAF in England.

Wondering if England could hear the broadcasts, Stafford cabled his son, asking if he heard him each week.

Some days later the son cabled back:

"YES."

By this time Stafford had forgotten his original question and was deeply puzzled, so he cabled again.

"YES, WHAT?"

The son wired back, quick as a flash:

"YES, SIR."

—*The Postage Stamp.*

Reward. Percy: "The moral law is easy to remember."

Flage: "So what?"

Percy: "If you're good you go to a place of everlasting bliss. If not, you go to a place of everlasting blisters!"—*Cosgrove's.*

Perhaps. Do you think your father would object to my marrying you?

I don't know. If he's anything like me, he would.—*Exchange.*

Navy Terms. A suit is a ship; the lawyers are waves opposing its motion; the winds are laws driving it in various directions; the judge is the captain; and justice is the North Star.—*Cleveland Bar Ass'n Journal.*

No Retainer. Two rival candidates for the position of District Attorney attended church services together. On coming out one said to the other "I heard you singing, 'I want to be an angel.' I knew you wanted to be District Attorney but I did not know you wanted to be an angel." Quick as a flash his rival replied, "I never mentioned the matter to you knowing you had no influence in that direction."

Important. An old gentleman dropped something on the floor of the theater and was making a great fuss trying to recover it. Finally a lady near him asked what he had lost.

"A chocolate caramel," replied the man.

"All that fuss over a piece of candy?" said the lady, in a rather disgusted tone.

"Yes," said he, "my teeth are in it!"

—*Exchange.*

The Exception. The plutocratic looking man, in a fur-lined overcoat, and sporting a big cigar, walked his lordly way down the street.

"He," said the local cynic, "is one of the few men who have got rich from writing poetry. And he wrote for only six months."

"What!" said the poet. "How the devil did he do that?"

"He wrote love sonnets to a rich and ancient widow."—*Cosgrove's.*

Look Out. Doc—There's no need to worry about your wife. You'll have a different woman when she gets back from the hospital.

Anxious Hubby—And what if she finds out?

The Collection. Customer in drug store (on Sunday morning): "Please give me change for a dime."

Druggist: "Here you are. I hope you enjoy the sermon."—*Exchange.*

The First Essential. "Which would you desire most in your husband: brains, wealth or appearance?" asked one.

"Appearance," snapped the other, "and the sooner the better."—*Exchange.*

He Knew the Difference. "I beg your pardon, Miss, but would you care to take a ride?"

"Sir, I'll have you know I'm a lady."

"I know that. If I wanted a man, I'd go home and get my father."

Has Hopes. "What are you cutting out of the paper?"

"About a man getting a divorce because his wife went through his pockets."

"What are you going to do with it?"

"Put it in my pocket."—*Exchange.*

Vivid Memory. "I noticed you got up and gave the lady your seat in the street car."

"Since childhood I have always respected a woman with a strap in her hand."

Serious. "I would like to see the Judge, please."

"Sorry, sir, but he is at dinner."

"But this is important."

"Can't be helped, sir, His Honor is at steak."—*Cosgrove's.*

The Art of Cross-Examination. The witness was the village physician. The prosecutor sought to embarrass and humiliate him.

"Isn't it a fact that the defendant in this case is your patient, and a man of wealth and influence and you are distorting and doctoring your testimony to curry his favor?"

The witness answered, "Well, since you mention the relation of physician and patient, I would like you to know the defendant is suffering from Phylagrosis."

The prosecutor asked, "Doctor, what is this disease you call Phylagrosis?"

The doctor answered, "Well, I am not an expert, but it is a disease that attacks the cranium cells."

"Does it ever cause insanity or non compos mentis?"

"Well," answered the physician, "I have known many patients to suffer from the disease for years without showing any pugnacious and belligerent tendencies, while others have been violent and pugnacious."

The prosecutor asked, "Doctor, explain all about this disease."

The physician answered, "I am not an expert in such diseases, I was not summoned as an expert, and I am not going to testify as an expert."

The prosecutor stated to the Court that, "It would be too expensive to summon experts at the expense of the county," and he submitted the case to the jury without expert testimony.

The jury returned a verdict, "Not guilty."

The foreman, by way of explanation said, "We discharged the defendant because Doc says he had something the matter with his head."

The prosecutor tried to explain to his constituents that he did not want to take the time of the court and the money of the county to call expensive experts, but for his own enlightenment he examined Webster's Dictionary and found Phylagrosis—"baldheadedness." The illuminating information came too late.—*Cleveland Bar Asso. Journal.*

Fair Exchange. "I am going to buy a $10 brassiere for your birthday. What size to you wear?"

"Never mind. Give me the $10, because I'm flat busted."—*Selected.*

Simple. "Now you got to keep away from this guy," the second whispered into the cauliflowered ear of his principal. "Jab him an' get away or he'll use his right. You got to keep that left hand out there, an' don't let him get set to use his right. He's a cinch to try to get you to slug with him, but don't do it, or he'll get his right over sure."

"I got you," the fighter nodded, "I'll do just like you say, but suppose he does get his right over anyway? What'll I do?"

"Nothin'," the second instructed. "Just relax and me an' the referee will carry you to your corner."—*Exchange.*

A Need. The best thing that you can do is give up the weed, wine and women.

What's the next best thing?—*Exchange.*

He Knew. Speaker: "Do you know that the time is coming when women will receive men's wages?"

Melancholy Voice from Rear of House: "Yes, Saturday night."—*Exchange.*

Logical. Once upon a time a man got up early on Sunday morning to let the iceman in and not being able to find his bathrobe, he slipped on his wife's kimono. When he opened the door he was greeted by a nice big kiss by the iceman. And the only way he could figure it out was that the iceman's wife had a kimono just like the one he had on.—*Exchange.*

The Risk. "Should I marry a man who lies to me?"

"Lady, do you want to be an old maid?"

—*Exchange.*

Perfect. He—You are getting fat.

She—In the best places they say "plump."

He—Well, you're getting fat in the best places.—*Exchange.*

Ants. A school teacher asked the pupils to write a short essay and to choose their own subjects.

A little girl sent in the following paper:

"My subjek is 'ants.' Ants is of two kinds, insects and lady uncles.

"Sometimes they live in holes and sometimes they crawl into sugar boles, and sometimes they live in with their married sisters."
—*Exchange.*

Rest in Peace. The Irish foreman found one of his men sleeping in the shade.

"Slape on, ye idle spalpeen," he said. "slape on. So long as ye slape ye've got a job; but whin ye wake up, ye're out of wurrk."
—*Exchange.*

Prodigal. "While I was out to a poker game last night, a burglar broke into my house."

"Did he get anything?"

"I'll say he did: My wife thought it was me!"—*Exchange.*

Necessary Evil. "Well, well," grunted the parent. "So you want to become my son-in-law, eh?"

Replied the suitor:

"To be strictly correct, no, I don't. But if I marry your daughter I don't quite see how I can avoid it."—*Exchange.*

Equine Sagacity. "Would you mind walking the other w'y and not passing the 'orse?" said a London cabman with exaggerated politeness to the fat lady who had just paid a minimum fare.

"Why?" she inquired.

"Because, if 'e sees wot e's been carryin' for a shilling 'e'll 'ave a fit."—*Exchange.*

He Qualified. "Is your boy friend broad-minded?"

"Yah, that's all he ever thinks of."
—*Exchange.*

A Reform. They claim that when women adopted shorter skirts it reduced the number of streetcar accidents 50 per cent.

Wouldn't it be fine if such accidents could be prevented entirely?—*Exchange.*

It Might Work. Lady—You would stand more chance of getting a job if you would shave and make yourself more presentable.

Tramp—Yes, lady. I found that out years ago.—*Exchange.*

Tamed. Son, who is this wild young woman you are running around with?

Aw, Dad, she ain't wild. Anybody can pet her.—*Exchange.*

No Make. "I didn't mean to make you mad."

"Big boy, you didn't make me mad. You just didn't make me."—*Exchange.*

The Modern Miss. Ma: "You know, darling, Ruth is fifteen years old now—so today I had a frank talk with her about the facts of life."

Pa: "Well, did you learn anything?"
—*Exchange.*

Some Party. "What kind of a dress did Betty wear to the party last night?"

"I don't remember. I think it was checked."

"Boy! That must have been a real party."
—*Exchange.*

Concert Thoughts. Mrs. Gleeson (at concert): "She has quite a large repertoire, hasn't she"

Gleeson: "Yes, and that dress makes it look all the worse."—*Exchange.*

Ranchman. Did you hear about the bow-legged herdsman's daughter who has such an awful time keeping her calves together?
—*Exchange.*

What's In a Name. "That girl's a virtuoso!"

"Don't be silly, she's been married twice."
—*Exchange.*

Equivocal. "Will you fight or will ye run?"

Men: "We will."

"Will what?"

"Will not."

"Ah, me brave bhoys, I knew yez would."
—*Exchange.*

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